

## **Conservation Commission, March 14, 2011**

Town of Scituate  
Conservation Commission  
Town Hall Selectmen's Hearing Room  
Meeting Minutes  
March 14, 2011

Meeting was called to order 6:25 at p.m.

Members Present: Mr. Snow, Chairman, Mr. Breitenstein, Mr. Greenbaum, Mr. Parys, Ms. Scott-Pipes.

Also Present: Paul Shea, Agent, Carol Logue, Secretary,

Agenda: Motion to accept the agenda Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Order of Conditions: Menino, 5 Ocean Dr (septic)  
Motion to condition the project Mr. Greenbaum. Second Ms. Scott-Pipes. Motion passed by unanimous vote.

Order of Conditions: Coleman, 163 Glades Rd (septic)  
Motion to condition the project Mr. Greenbaum. Second Ms. Scott-Pipes. Motion passed by unanimous vote.

Order of Conditions: Wall, 12 Oceanside Dr (rebuild deck/repair garage after storm)

Revised plan was received; no space between the deck and the seawall and still waiting for abutter notification. Holding until plan comes in. Can sign the orders, but not issue until information is submitted or wait to sign. Building requests 3', DPW would prefer 10'. DPW has requested to review all applications with seawalls. Let them work it out with the owners. Put off for another 2 weeks. What about the 21 days to issue the Order? Appeal is doubtful. Motion to continue the Order of Conditions to March 28, 2011 Mr. Snow. Second Ms. Scott-Pipes. Motion passed by unanimous vote.

Order of Conditions: Hallisey, 29 Hawthorne St (shed/brick patio/gravel walk/drive/parking area/dune replenishment & revegetation)

Ms. Scott-Pipes: Planting Plan restricts access. Mr. Shea: Beach grass within the passageway will not restrict access, basically approving the planting plan from Crawford's previous filing, a vegetation restoration. Commission approved the site plan and Mr. Hallisey has no problem following that plan. 2004 plan won't block walking. Once planting is done, there is not supposed to be driving down the way. Motion to condition the project Mr. Greenbaum. Second Mr. Breitenstein. Motion passed by a 4 to 1 vote.

Wetlands Hearing: Hall, 34 Ocean Dr (reconstruct & repair existing seawall)

Received DEP File #68-2299. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Order of Conditions: Hall, 34 Ocean Dr (reconstruct & repair existing seawall)

Motion to condition the project Mr. Greenbaum. Second Ms. Scott-Pipes. Motion passed by unanimous vote.

Wetlands Hearing: Seoane, Cavanagh Rd (new build) (cont.)

Applicant's representative request a continuance to March 28, 2011 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Wetlands Hearing: Wannop, Lot 2 Glades Rd (new build)

Applicant's representative requested a continuance. Motion to continue to March 28, 2011 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Wetlands Hearing: McCarthy, 63 Lighthouse Rd (raze/rebuild accessory building)

Bob Crawford, E.E.T., Inc., was present at the hearing. Abutters notification was submitted. Property is on easterly side of Lighthouse Rd. Two structures on 1 lot. Tearing down existing structure, but leaving foundation and footings and rebuilding, same footprint. Dumpsters will be placed in the rear yard. Have permission to use driveway to the left of the structure. No machinery will be used except

to back dumpster in and pick up. Applicant owns 3 lots. Flood Zone AE elevation 11. Existing foundation 12.1'. Planning on bracing foundation in garage area. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Agent's Report: Toth, 172 Cornet Stetson Rd. This morning discussed site with Mr. Greenbaum. Completed asphalt driveway bigger than what was on the plan, grading resulting in ponding on adjacent property. Some of the erosion controls were breaking down. Talked with Josh Bows at Merrill, who sent the Toths a contract to do an as-built plan, but the Toths decided not to go forward. Hired Ward Eisenhower who did an inspection, thinks the grading is fairly close; Merrill and Mr. Shea disagree. He also claims hay bales were fine. Approved a site plan for a previous owner, that was the Merrill Plan. Toths bought it and started construction. When they start they are supposed to send in reports, contacts, etc. and nothing has been acted on. Question came up from Mr. Shaffer who lives in Norwell. Don't think contours are right and his land is getting flooded. Driveway was made wider for kids to play in, that was stated at an on-site. In non-compliance with the Orders. Mr. Snow: chose not to use the engineer who designed it; leaves that engineer off the hook if there is a problem. Can we just give them an Enforcement Order to fix the problem? They are going to say the project is on-going. Usually an asphalt driveway is put in last, so trucks don't damage it. Mr. Snow: Issue an Enforcement Order stating they are in non-compliance, no schedule, no reports, or tell them to cease and desist. Mr. Shea: Talked with neighbor's landscaper, asking to move trees that are dying. Problem has been around since December. Mr. Greenbaum: They created a dam; it was a lake on Friday. Show Cause hearing basically said come up with a solution in 2 weeks. Enforcement Order or \$300 a day for not complying with the Orders. If Ward Eisenhower wants to use the plan, submit the approved plan with his stamp. Not the same shape. Should cut the driveway. Motion to issue an Enforcement Order to build the driveway according to plans, follow the Order of Conditions, and add to erosion controls. Give them 7 days Mr. Greenbaum. Second Ms. Scott-Pipes. Motion passed by unanimous vote.

Wetlands Hearing: Martin, 24 Ocean Front St (install boulders to

stabilize slope)

Gary Walcott, Grady Consulting, was present at the hearing. Abutters notification was submitted. Commission issued an Emergency Certificate to do emergency repairs. Boulders and sand bags were allowed. Hired Grady Consulting to prepare a Notice of Intent and an as-built plan once it was done. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Wetlands Hearing: Scanlan/Dankert, 232 Central Ave. (reconstruct existing seawall & concrete patio)

Brian Taylor, Stenbeck and Taylor, and Jack Dankert, SK Scanlon were present at the hearing. Abutters notification was submitted. Concrete wall and patio failed in December storm. Original footing wasn't deep enough, was undermined and the wall collapsed. Patio, 6" reinforced slab, top elevation is the same as abutting properties, 20.36'. Went down 5' with concrete footing and double mat wall, all within the footprint with a precast staircase to provide easy access to the beach. Ms. Scott-Pipes: since concrete walls and patios seem to crumble, wonder if that's the right thing to do. Mr. Greenbaum: Should have rip-rap in front. Shows rip-rap on property next door. Mr. Shea: probably built wrong in the past, put some armor stone at the base and rip-rap, so water dissipates before it hits the wall; DEP doesn't want to see vertical walls - trying for consistency. Old concrete walls break apart without the right footing. Property owner is interested in rip-rap. Mr. Greenbaum: saw cut top concrete in smaller pieces; thinks DEP was asking for scoring. Mr. Parys: If you are going to build a rip-rap wall, do you even need the concrete wall? Don Hourhian: agree with Scott, slab sits on top of the shoe, prevents water from going over the wall, need a deep footing, water goes through the rocks and undermines the footing. Mr. Kalishes was strongly against slabs; can't accelerate if you don't have energy behind it. Helps to prevent undermining. Ms. Scott-Pipes: We have to do what DEP wants. Mr. McLaughlin, 234 Central: The wall did not fail because of the ocean; it sinks, and then fills up from the backside. Mr. Shea: Do you want to modify the plan to include rip-rap? Don't think DEP will have an issue. Continue the hearing and talk to Greg DeCesare at DEP. Motion to continue the hearing to March 28, 2011 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Wetlands Hearing: Hand, 264 Central Ave. (reconstruct concrete wall & patio, add rip-rap)

Bob Crawford, E.E.T., Inc., was present at the hearing. Abutters notification was submitted. Prepared the site plan portion. The project consists of repairing a concrete patio held up by a seawall on easterly side of dwelling. Existing concrete patio on concrete wall foundation is at elevation 17.42', VE Flood Zone, elevation 14. Replace the broken portion of the wall with a new concrete wall and a reinforced concrete footing. Proposing 10" slab of concrete underneath the walls and backfill with gravel. Approximately one-third of the wall was damaged. Proposing rip-rap on the ocean side, tapered up to the top of the wall. Structural engineer dealt with the definition of rip-rap. Mr. Shea: give a profile of the rip-rap, explanation of size of stones, how deep the toe will go, and the contour of the slope. Motion to continue the hearing to March 28, 2011 at 6:40 p.m. Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

Wetlands Hearing: Akerblom, 228 Central Ave. (repair foundation wall & floor slab)

Peter Williams, GZA/Vine Associates, was present at the hearing. Abutters notification was submitted. Requesting an amendment to previously approved Orders for a revetment. Foundation of existing house was damaged and undermined during the storms, with erosion at the front corner of house and the south sidewall undermined. Proposing: Deeper foundation with a footing, also install footings along existing wall that was damaged. Front wall will be deeper to avoid undermining and scouring. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Wetlands Hearing: Scituate Harbor Yacht Club, 84 Jericho Rd (r/r outbuildings, etc. + snack bar)

Paul Mirabito, Ross Engineering, Frank Colpoys, member, and John MacNeil, Commander, and Can Tiryaki were present at the hearing. Proposed site improvements: Raze existing lockers and remove from velocity zone, cabanas and outbuildings. Relocate and construct approximately 130 lockers on a concrete deck. Build a new snack bar on concrete foundation in flood zone AE elevation 12. The top of the

foundation will be at 13.1', with breakaway panels. Proposing to extend open deck cantilevered off the existing wood deck pile foundation at the same elevation. Remainder of site will have poured concrete sonotubes. No changes to pool. Remove vegetation and fence along Jericho Road, replacing fence. Have Zoning Board approval. Submitted 2 site plans: existing conditions and proposed. Resource areas: FEMA flood zone on easterly side VE and other side AE, both elevation 12'. Main building is at elevation 11. Architectural rendering. Portion of site has some rip-rap, technically could be considered a coastal bank, not proposing work in that area. Mr. Snow: Are there foundation plans? No. Has to be designed structurally. Would submit prior to construction. Footprint can't change. The building probably will be razed. Ms. Scott-Pipes: need the plans for the snack bar just like the building inspector will need, before orders are set. Mr. Snow: some pieces need to be filled in, foundation plans. Looking for feedback? Not going to be able to close this evening. Seeing if there are any regulatory problems. Mr. Greenbaum: how many square feet is the concrete deck? Hasn't been calculated, but approximately 5,000 sq. ft. Existing asphalt will be taken up and concrete poured. Zoning concerned about ADA requirements. Concrete is the best solution for wheelchair accessibility. Storm water regulations – Need a complete storm water application. Jericho Road floods seriously. Need some idea of how that pad will be put in, so no additional water drains on Jericho Road; drainage is terrible. Correct Notice of Intent application: need to modify to coastal bank, not barrier beach. Need to know all the resource areas and setbacks from coastal bank. Snack bar brings project under another level of scrutiny. Want to see a plan with all the resources noted; want to see a complete application. Mr. Breitenstein: existing structure at the end, where the docks are stored--are they staying and tied down? Yes. Mr. Shea: agree with Scott--show all the resources on the plan and check storm water regs. Deck area impervious now, but will be concrete. Snack bar area is 1376 sq. ft., proposed snack bar 608 sq. ft. within 50' of coastal bank. Entire site from the top of the coast back is developed. Existing lockers on asphalt. Lower deck down to grade level. Moving most of the construction toward the road, technically that is an improvement. Mr. Snow: site is mostly impervious, define areas and possibly grading so we know where runoff is going. Will amend for the next hearing and

add the other building. Details for foundation – cross-section. Motion to continue the hearing to March 28, 2011 at 6:40 p.m. Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Wetlands Hearing: Walsh, 36 Brunswick St (install plantings) (cont.) Brad Holmes, Paul Mirabito, Joan Walsh, Atty. Guimond were present at the hearing. The plan submitted is a revised plan, planting shaded area, the area required in original Order of Conditions. Some will be planted over the existing leaching area; proposing American beach grass. Best time to plant is between October and April 15 for best results. Had a meeting with Mr. Snow and Mr. Shea Feb. 24. They asked applicant to plant shaded area. Mr. Greenbaum: Paved driveway exists? Yes. Mr. Shea: basically the Order of Conditions expired and area was never revegetated. Mr. Ivas's plan came in with shrubs over the septic system, didn't want to plant shrubs over septic; plant American beach grass. This original proposal came in with a wider path. Replant to the same extent as 2004. Shrub planting outside the leaching area could be considered. Ms. Scott-Pipes: why didn't they follow the conditions before? Can we set a time limit? Presuming they would want to plant, but possibly this situation could happen again? Construction work is all done; this is just for planting that wasn't done. Atty. Matt Mitchell, representing Dolores McEllin: Submitted a 3-page letter and pictures; photograph is from 2003 that shows Walsh property on right hand side; understand the purpose of the Enforcement Order was to comply with the 2005 Order of Conditions. Enforcement Order actually says planting was never completed. When originally filed it was a coastal dune. In terms of access, previous condition #53 stated, a 4' passageway, with no vehicular traffic, as a continuing condition. They proposed an 8' driveway. They reduced it to 4'. No one is supposed to be driving down the passageway because it is a coastal dune. When Order of Conditions is issued for this filing, we are requesting that #53 stay in, and continue, because we feel that Ms. Walsh should not benefit from not finishing the work. She has the right to use it, but that doesn't mean vehicular access. Hallisey has a 3' footpath. Two people use it for vehicular access. Mr. Mitchell: But they have no other access to their homes, Ms. Walsh has access from Brunswick St. Back in 2007, Mr. Parys was involved with negotiations with other abutters concerning access. Since that is an issue, we feel

he may have a conflict with any vote because he was involved with vehicle access in the past. Delores McEllin, 29 River St: Original Order of Conditions had a 4' walkway; we feel if she ignored everything else, would like the walkway back as in the 2005 filing. Jean Shellington, Hawthorne St: re: Brunswick Street Extension - Delores lives on the corner and there is another dwelling and they take their cars up to get to their house, but they don't want it used as a road. Mr. Snow: Having a hearing about replanting. Atty. Guimond: inaccurate facts, whole issue regarding access is not Commission's jurisdiction. Commission doesn't have the right to dictate use of a passageway, well beyond scope of authority. The Order of Conditions has expired. Paul Mirabito: Proposed gravel driveway that was not allowed, planting in that area. If the applicant wants to come back she would have to reapply. Previously submitted pictures of snow on the ground, submitted new pictures with no snow. Mr. Shea: Wouldn't be here tonight if the plantings had been done. Just approving the planting plan and need to make sure the plantings are done this time. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Wetlands Hearing: Winchester/Tilden Woods LLC, 77 Elm St (grading & outlet structure)

John Zimmer, wetland scientist, and Don Gillespie, one of the managers of the project, were present at the hearing. Abutters notification was submitted earlier. Project: 15 lots off Elm Street with access from a cul-de-sac. Storm water management system located within the buffer zone. 50' and 100' buffers shown on plan. Storm water for the site is picked up from the road and goes to a series of catch basins, down to the basin; 92% treatment; meets storm water guidelines. One corner of a dwelling is within 100' buffer. Site grading with installation of lawns and grading for the storm water basin, approximately 32,400 sq ft disturbance in the 50' to 100' buffer. Revegetation plan: high quality wildlife species, berries as well as Junipers, and seed the whole area with a conservation mix. Almost entire 100' buffer zone remains vegetated. Portion of site is within the Water Resource Protection District, but no work is proposed. Applicant is dedicating approximately 300,090 sq ft of open space. Lots have individual septic systems. Mr. Greenbaum: house that touches the 100'



buffer has no yard and slopes; don't see any real issues. Shoehorned in because of the septic system and the 100' buffer. Planning Board is handling the storm water. Request to continue the hearing to be sure we are through the Planning Board. Outside jurisdiction, except for the detention pond, which will not have any adverse effect on the wetlands. Mr. Snow: walked site, when proposal for CPC, whole back area and down is part of the open space plan. Mary Clark, Hughey Rd: Where is Tam Brook in relation to development? Mr. Zimmer: Tam Brook is several hundred feet to the south of the lot; out of riverfront area. Tam Brook starts at Elm Street and Beach Plum Lane, didn't locate by survey. ANRAD was filed in 2008, good for 3 years. John Richardson flagged the wetland and Don Schall reviewed. Request continuance for 2 weeks for clarification of Planning Board for storm water issues. Motion to continue the hearing to March 28, 2011 6:40 p.m. Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Agent's report: 28 Dartmouth St: After the meeting with Mr. Duggan, Mr. Snow, Mr. Dealy, Mrs. Snow and her friend, it was left that Mr. Dealy would submit a request for an amendment. Wants to try to leave a section of deck that attaches to the house. Removing it would wreck the railing. Plan was designed for the deck to be removed. Letter from 2006 stated that Dealy and Stone agreed to have it totally separated. Mr. Dealy did finally take sections of deck out, sent an Enforcement Order, need to take out last section. That sparked the Selectmen. He didn't build it according to plans and never appealed the Order of Conditions. Going to request to install sonotubes. He's on speed dial: if there is a hurricane. Told Dealy to come back in to amend conditions. Have to keep an eye on contractors. Commission will need to decide whether or not to allow it to stay. Presume he will be coming in. Mr. Snow: give another couple of weeks.

31 Candlewood Drive: new plan from February 22, 2011--wants Commission to look at plan. Met with Brad Holmes, Kamman put Asian Pear orchard and fill in a wetland area. Read page 2 of Brad's letter, restore wetland, relocate orchard in the 50' and 100' buffer zone. Take a look at the plan.

270 Central Ave: All Emergency permits have to come in with Notice of Intent. Augie Bloomstein was contracted by the Cherubini's. He thought

he had the Emergency paperwork, but didn't. Needs to be taken out.

## CORRESPONDENCE

February 28, 2011 – March 14, 2011

1. The Beacon
2. Revised Wetland Restoration Plan for Kamman, 31 Candlewood Dr (in file)
3. Notification to Abutters form re: The Scituate harbor Yacht Club, 84 Jericho Rd (in file)
4. Chapter 91 License information re: Owens, 224 Central Ave. (in file)
5. DEP File # 68-2297 – Wall, 12 Oceanside Dr (in file)
6. Request for continuance – Lot 2 Glades Rd – 68-2290 until Mar. 28, 2011 (in file)
7. NSRWA requests permission to use the Driftway Park for the Annual River Clean Up Day Celebration. Apr. 30 from 10:00 – 12:00 with a cookout at the park at Noon for clean-up volunteers. Apologized for not asking before the flyer was made up.
8. Revised plans for Walsh, 36 Brunswick St (in file)
9. Notification to Abutters form re: The Town of Scituate, 163 Stockbridge Rd (in file)
10. Notification to Abutters form re: The Town of Scituate, 165 & 167 Stockbridge Rd (in file)
11. FEMA re: upcoming Risk mapping, Assessment, and Planning Discovery Meeting – Mar. 31, 2011 at 10:00 to 12:00
12. Marine Fisheries re: Kent Street Corp., 150R Front St – to dredge 1,500 cu yds of Scituate Harbor – winter flounder spawning habitat “Habitat Areas of Particular Concern”. 1) Restriction of all dredging from Feb. 1 through June 30; 2) barges and work vessels prohibited from grounding at any time; 3) adequate containment measures; 4) move shellfish prior to the start of any dredging
13. Recording information - Extension of OofC for 68-1902 off Glades Rd (Great Rock & Little Rock Islands) wetland delineation (in file)
14. Planning Board re: Site Plan Review Application – Common Driveway 163, 165 & 167 Stockbridge Rd (filing)
15. DEP re: Final Decision re: Boyajian, 43 Oceanside Dr - 68-2222 – Recommended Final Decision of the Presiding Officer is adopted. Can file a motion for reconsideration (in file)
16. Request for extension for 68-2077 – 123 Country Way (in file)

17. Notification to Abutters Form re: Clover Realty Trust, Scott Caulfield, Trs., 10 Shoal Water Rd (reconstruction) (in file)
18. Revised plan for #18 Hatherly Rd – above ground pool and deck (in file)
19. Request for CofC for 68-1995 10 Old Driftway and 68-2292 (in files)
20. DEP File #68-2299 – Hall, 34 Ocean Dr (in file)
21. DEP File #68-2300 – Martin, 24 Ocean Front St (in file)
22. DEP File #68-2301 – McCarthy, 63 Lighthouse Rd (in file)
23. DEP File #68-2302 – J.K. Scanlan, 232 Central Ave. (in file)
24. DEP File #68-2303 – Tilden Woods, LLC, 77 Elm St (in file)
25. Notification to Abutters form re: Marsh, 126 Edward Foster Rd (in file)
26. Matthew Mitchell re: 68-2296 Walsh, 36 Brunswick St. forwarded to members (in file)
27. Request to continue 68-2284 – Cavanagh Rd (in file)
28. Progress report re: Toth, 172 Cornet Stetson Rd
29. Mass Wildlife Magazine
30. Proposed landscaping plan for Seoane, Cavanagh Rd (in file)

Meeting adjourned 9:00 p.m.

Respectfully submitted,

Carol Logue, Secretary